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California Cigarette and Tobacco Products Tax

*Regulations Issued
Pursuant to Part 13,
Division 2*

Revenue and Taxation Code

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INTRODUCTION

This pamphlet is designed for licensees under the California Cigarette and Tobacco Products Tax Law: Part 13, Division 2 of the Revenue and Taxation Code. It contains information in regards to regulations that apply to the Cigarette and Tobacco Products Tax Law.

If you have any questions regarding the information contained in this publication, please call the Excise Taxes and Fees Division at 800-400-7115.

We welcome your suggestions for improving this or any other of the Board's publications. Please send your suggestions to:

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Note: This publication contains the applicable regulations in effect when the publication was written, as noted on the cover. However, changes in the law or in regulations may have occurred since that time. If there is a conflict between the text in this publication and the law, the law is controlling.

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ARTICLE 3. DISTRIBUTOR'S AND WHOLESALE'S LICENSE

Regulation 4011. DISTRIBUTORS NOT ENGAGED IN BUSINESS IN THIS STATE.

Reference: Sections 30108 and 30140.1, Revenue and Taxation Code.

Persons who are not engaged in business in this state may apply for a distributor's license. Holders of such licenses are required to file a certified monthly report or return with the Board on Board of Equalization Form BOE-501-CTS entitled "Cigarette and Tobacco Products Tax Return for Shipments to California Consumers" reporting the following: distributor's name, account number, his or her total number of distributions of cigarettes, total excise tax due on cigarettes, total cost of tobacco purchased, total excise tax due on cost of tobacco products, total excise tax due for all cigarettes and tobacco products, remitting payment of taxes, including any applicable interest or penalty, the name and address of each purchaser from whom an order is taken, the number of cigarettes and/or type, quantity, and wholesale cost of tobacco products sold and delivered pursuant to each order, and the amount of tax required to be collected from each purchaser. Further, the licensee is required to collect the tax, give receipts for the collected tax, and pay the tax to the Board in the same manner as licensees engaged in business in this state.

History: Adopted August 1, 2001, effective June 12, 2002.

ARTICLE 4. DISTRIBUTOR'S BOND

Regulation 4018. AMOUNT OF SECURITY.

Reference: Sections 30141, 30142 and 30167, Revenue and Taxation Code.

(a) The amount of security shall be fixed by the board. The board may increase or reduce the amount of security at any time, but in no event shall the amount of security be less than \$1,000.

(b) When a distributor is authorized to purchase stamps or meter register settings on the deferred payment basis, the security shall be fixed in an amount no less than 70 percent of the amount, and no more than twice the amount, as fixed by the board, of deferred payment purchases which the distributor may have unpaid at any time.

History: Adopted June 24, 1959.

Amended September 13, 1961.

Amended January 12, 1968.

Amended September 26, 2001, effective February 15, 2002. In subdivision (a), replaced "bond" with "security" and deleted second sentence, relating to security required for distributors who do not affix stamps. In subdivision (b), replaced "pursuant to the Cigarette Tax Law, his bond" with "the security," replaced "equal to" with "no less than," and added "and no more than twice the amount" after "70 percent of the amount".

ARTICLE 5. INVENTORIES

Regulation 4021. OPENING INVENTORY.

Reference: Sections 30182, 30188, 30453 and 30454, Revenue and Taxation Code.

Every distributor or wholesaler engaged in the sale of cigarettes shall take a physical inventory of cigarettes on hand as of the time the distributor or wholesaler first engages in the sale of cigarettes as a distributor or wholesaler. A report of a first physical inventory taken shall be filed with the board on or before the 25th day of the calendar month following the calendar month in which the distributor or wholesaler first engages in the sale of cigarettes as a distributor or wholesaler.

History: Adopted June 24, 1959.

Amended October 10, 1968, effective November 13, 1968.

Amended September 26, 2001, effective February 15, 2002. Deleted subdivision (b), which related to wholesalers, and "distributor or wholesaler" to remaining paragraph.

CIGARETTE AND TOBACCO PRODUCTS TAX REGULATIONS

Regulation 4022. INVENTORIES OF CIGARETTES.

Reference: Sections 30182, 30188, 30453 and 30454, Revenue and Taxation Code.

Every distributor and wholesaler engaged in the sale of cigarettes shall furnish with his or her monthly certified report to the board, on Board of Equalization Form BOE-501-CD entitled "Cigarette Distributor's Tax Report" or Board of Equalization Form BOE-501-CW entitled "Cigarette Wholesaler's Report," a statement of the cigarettes on hand at the end of the month covered by the report, showing the number of cigarettes on hand contained in packages to which tax stamps or meter impressions are affixed and the number not bearing tax stamps or meter impressions. The statement shall be furnished in one of the following manners:

(a) If the distributor or wholesaler has a cycle count inventory system and perpetual inventory system in place, the monthly statement shall be based on the perpetual inventory report run on the last business day of the month for which the distributor's or wholesaler's report is filed. However, at least once every calendar year, the monthly statement shall be based on a physical inventory of cigarettes on hand on the last business day of the month for which the distributor's or wholesaler's report is filed.

A "cycle count inventory system" is a system that provides evidence that all cigarettes are counted on a regular basis, with each item being counted at least once every three-month period.

A "perpetual inventory system" is a system in which inventory records are maintained and updated continuously as items are purchased or sold.

(b) If the distributor or wholesaler does not have a cycle count inventory system and perpetual inventory system in place, the monthly statement shall be based on the inventory on hand at the end of the month covered by the report. However, at least once every six months, the monthly statement shall be based on a physical inventory of cigarettes on hand performed within the last five days of the month for which the distributor's or wholesaler's report is filed.

History: Adopted June 24, 1959.

Amended October 10, 1968, effective November 13, 1968.

Amended September 26, 2001, effective February 15, 2002. Deleted existing language concerning inventories of cigarettes and replaced with new language.

Regulation 4023. INVENTORIES OF STAMPS AND METER UNITS.

Reference: Sections 30182, 30453 and 30454, Revenue and Taxation Code.

Every distributor engaged in the sale of cigarettes shall keep daily records of the number of tax stamps and meter units used in the distributor's affixing operations and shall record daily the meter register readings of the meters employed. The distributor shall take physical inventories of unused tax stamps on hand as of the end of each month and shall furnish, with his or her monthly report to the board, a statement of all unaffixed and affixed tax stamps and meter units on hand at the end of the month covered by the report.

History: Adopted June 24, 1959.

Amended September 13, 1961.

Amended September 26, 2001, effective February 15, 2002. Deleted gender-specific references.

ARTICLE 6. RECORDS

Regulation 4026. RECORDS.

Reference: Sections 30453 and 30454, Revenue and Taxation Code.

(a) **GENERAL.** Every distributor, every wholesaler, and every manufacturer, of cigarettes and tobacco products, shall maintain and make available for examination on request by the board or its authorized representatives, records in the manner set forth at California Code of Regulations, Title 18, Section 4901.

CIGARETTE AND TOBACCO PRODUCTS TAX REGULATIONS

(b) SPECIFIC APPLICATIONS. In addition to the record keeping requirements set forth in subdivision (a), every cigarette manufacturer and every tobacco products manufacturer shall comply with the following requirements:

Every cigarette manufacturer or tobacco products manufacturer dealing in, transporting, storing or warehousing cigarettes or tobacco products in this state or otherwise engaged in business in this state as a distributor shall keep and maintain at his or her place of business in this state, or at the warehouses or storage places from which cigarettes or tobacco products are released or delivered by the manufacturer, a record of all releases or deliveries of cigarettes or tobacco products from each storage place or warehouse in this state and shall keep and maintain either within the state or at the manufacturer's home office, a record of all the manufacturer's shipments of cigarettes or tobacco products from points outside this state to points within this state. Such records shall be made available at any time during normal business hours to the board or its authorized representatives for examination upon request.

History: Adopted June 24, 1959.

Amended September 26, 2001, effective February 15, 2002. Deleted existing language concerning records and added new Subdivisions (a) through (k).

Amended February 5, 2003, effective May 28, 2003. The underscored citation indicates an electronic hyperlink to the cite. Common administrative provisions for special taxes programs have been consolidated in Chapter 9.9 Special Taxes Administration. General recordkeeping requirements can be found at the cite referenced in subdivision (a). Subdivision (b) has been added to identify additional recordkeeping requirements for cigarette manufacturers and tobacco products manufacturers.

Regulation 4027. MANUFACTURER'S MONTHLY REPORT.

Reference: Sections 30453 and 30454, Revenue and Taxation Code.

(a) Each cigarette or tobacco products manufacturer shall file with the board by the 20th day of each calendar month a certified report with respect to all releases and deliveries of cigarettes or tobacco products in this state and all shipments of cigarettes or tobacco products from a point outside this state to a point within this state made or authorized by the manufacturer during the preceding calendar month. The releases, deliveries and shipments for each purchaser shall be grouped together in the report. The report shall be on Board of Equalization Form BOE-501-MC entitled "Manufacturer's Report of Cigarettes Released from Storage in California or Shipped into California" or Board of Equalization Form BOE-501-MT entitled "Manufacturer's Report of Tobacco Products Released from Storage in California or Shipped into California" and shall show the following information with respect to each release, delivery or shipment:

- (1) the date of the release, delivery or shipment;
- (2) the location from which the release, delivery or shipment was made;
- (3) the name and address of the purchaser;
- (4) the address of the place to which the cigarettes or tobacco products were shipped, released or consigned;
- (5) the number of cigarettes or type, quantity and wholesale cost of tobacco products released, delivered or shipped;
- (6) the invoice or document number and date thereof representing the release, delivery or shipment;
- (7) if released to a licensed distributor, the license number of such distributor; and
- (8) in the case of a cancellation of any release, delivery or shipment, information indicating the transaction was cancelled.

The above information need not be supplied with respect to cigarettes or tobacco products which are non-tax-paid under the provisions of chapter 52 of the Internal Revenue Act of 1954, as amended, and are released, delivered or shipped in internal revenue bond or customs control.

(b) In lieu of the monthly reports required by paragraph (a) of this section, a manufacturer may arrange with the board to supply the required information by supplying data processing media or other data in such manner and in such format as is satisfactory to the board.

CIGARETTE AND TOBACCO PRODUCTS TAX REGULATIONS

History: Adopted June 24, 1959.

Amended September 13, 1961.

Amended November 3, 1967.

Amended September 26, 2001, effective February 15, 2002. Added references to tobacco products and tobacco products manufacturers and deleted gender-specific language throughout the regulation. In the first sentence of subdivision (a), removed "he releases or delivers" after "storage places from which" and added "or tobacco products are released or delivered by the manufacturer". In subdivision (b), deleted "such" after "each" and added "described in paragraph (a) above" after "manufacturer" in the first sentence, deleted "in a form prescribed by the board" after "shall be" and added "on Board of Equalization Form... from Storage in California or Shipped into California", added "or tobacco products" to subdivision (b)(4), and added "or type, quantity and wholesale cost of tobacco products" to subdivision (b)(5).

Amended February 5, 2003, effective May 28, 2003. Deleted recordkeeping requirements in (a) and renumbered (b) to (a) and (c) to (b). General recordkeeping requirements can be found at California Code of Regulations, Title 18, Section 4901.

ARTICLE 7. TAX REPORTS

Regulation 4031. DISTRIBUTOR'S AND WHOLESALE'S REPORT.

Reference: Sections 30182, 30188, Revenue and Taxation Code.

(a) Every distributor required to be licensed shall on or before the 25th day of each calendar month, file a report with the board of all acquisitions and distributions of cigarettes for the preceding calendar month, together with such other information as is required on the report form. The report shall be made on a form prescribed by the board.

(b) Every wholesaler required to be licensed shall on or before the 25th day of each calendar month, file a report with the board of all acquisitions and sales of cigarettes for the preceding calendar month, together with such other information as is required on the report form. The report shall be made on a form prescribed by the board.

History: Adopted June 24, 1959.

Amended January 12, 1968.

Amended October 10, 1968, effective November 13, 1968.

Regulation 4031.1. PAYMENT BY ELECTRONIC FUNDS TRANSFER.

Reference: Sections 30190 and 30192, Revenue and Taxation Code.

Payments by electronic funds transfer shall be made in accordance with California Code of Regulations, Title 18, Section 4905.

History: Adopted March 22, 2005, effective July 7, 2005.

Regulation 4034. REPORT OF SALES TO CONSUMERS.

Reference: Sections 30105.5, 30108, 30140, 30151, 30182, 30183, 30453 and 30454, Revenue and Taxation Code.

(a) Every person engaged in business in this state who sells or solicits orders for cigarettes, the use or consumption of which is subject to the tax, must file a certified return with the board, on Board of Equalization Form BOE-501-CI entitled "Cigarette and Tobacco Products Excise Tax Return, on or before the 25th day of the calendar month following the calendar month in which the cigarettes were delivered in this state showing:

- (1) the name and address of each purchaser from whom an order was taken;
- (2) the number of cigarettes sold and delivered pursuant to each order; and
- (3) the amount of tax required to be collected from each purchaser, together with a remittance of such tax.

(b) Every person engaged in business in this state who sells or solicits orders for tobacco products, the use or consumption of which is subject to the tax, must file a return with the board as follows:

CIGARETTE AND TOBACCO PRODUCTS TAX REGULATIONS

(1) If the person is required to be a licensed tobacco products distributor, he or she shall report on the tobacco products distributor's monthly certified tax return (Board of Equalization Form BOE-501-CT entitled "Tobacco Products Distributor Tax Return") the wholesale cost of all tobacco products distributed to consumers, together with a remittance of the tax due. The return shall be filed on or before the 25th day of the calendar month following the calendar month in which the tobacco products were delivered in this state.

(2) If the person is required to be a registered tobacco products distributor, he or she shall file a certified return with the board, on Board of Equalization Form BOE-501-CTS entitled "Cigarette and Tobacco Products Tax Return," on or before the 25th day of the calendar month following the calendar month in which the tobacco products were delivered in this state showing:

(A) the name and address of each purchaser from whom an order was taken;

(B) the type, quantity, and wholesale cost of tobacco products sold and delivered pursuant to each order;
and

(C) the amount of tax required to be collected from each purchaser, together with a remittance of such tax.

(c) Every person engaged in business in this state who, as permitted by state law and the terms of the November 23, 1998 Master Settlement Agreements with the state which are applicable to the signatories to those Agreements, makes gifts of untaxed cigarettes or tobacco products as samples by means of shipment from an out-of-state point directly to a donee in this state shall collect the tax from the donee if the donee is other than a licensed distributor and shall give the donee a receipt showing the name and place of business of the donor, the name and address of the donee, the number of cigarettes donated, and the amount of tax required to be collected, or the type, quantity and wholesale cost of the tobacco products donated and a statement indicating that the tobacco products tax has been paid.

Each package of sample cigarettes shall have imprinted on it: "Not for Sale. Applicable state tax has been paid." and each package of sample tobacco products shall be clearly marked as a sample.

Donors of sample cigarettes shall notify the board in writing in advance of the shipment of the cigarettes into the state giving information as to the approximate date or dates, location or locations, brand, and the method of shipment into the state. Each donor of cigarettes and tobacco products shall file a return with the board on or before the 25th day of the calendar month following the calendar month in which the cigarettes or tobacco products were delivered in this state showing the number of cigarettes shipped into the state or the type, quantity and wholesale cost of the tobacco products and the amount of tax required to be collected from each donee, together with a remittance of such tax.

(d) The taxes required to be collected constitute debts owed by the distributor, or other person required to collect the taxes, to this state.

(e) "Engaged in business in the state" means and includes any of the following:

(1) Maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business.

(2) Having any representative, agent, salesperson, canvasser or solicitor operating in this state under the authority of the distributor or its subsidiary for the purpose of selling, delivering, or the taking of orders for cigarettes.

(f) The requirements of this regulation do not apply to those distributions of federally tax-free cigarettes or tobacco products which are exempt from tax under Section 30105.5 of the Revenue and Taxation Code.

History: Adopted June 24, 1959.

Amended January 12, 1968.

Amended October 10, 1968, effective November 13, 1968.

Amended April 11, 1972, effective May 14, 1972.

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Amended September 26, 2001, effective February 15, 2002. Added "engaged in business in this state" after "Every person" and deleted "file reports with the board as follows:" following "must" in subdivision (a). Deleted subdivision (a)(1), deleted subdivision (a)(2) reference and "If the person is engaged in business in this state and is required to be a registered cigarette distributor, he or she shall", before "file a", replaced "report or" with "certified return", and added ", on Board of Equalization...Tax Return. Renumbered subdivision (A), (B), (C) to subdivision (1), (2), (3). Added new subdivision (b). Renumbered subdivisions (b), (c), (d) and (e) to subdivisions (c), (d), (e), and (f). In first paragraph of subdivision (c), added "who, as permitted by state law... those Agreements", changed "and making" to "makes", added "or tobacco products" after "untaxed cigarettes", deleted "at the time of making the gift, or, if the donee is not then obligated to pay the tax, at the time the donee becomes so obligated" after "in this state shall", and added "or the type, quantity... been paid". In the second paragraph of subdivision (c), deleted "such" after "Each package of", and added "and each package... marked as a sample". In the third paragraph of subdivision (c), removed "volume of the sample" after "brand". In subdivision (f), added "or tobacco products" after "cigarettes" and removed "to certain veteran's institutions" before "which" and removed "distributions" after "which". Removed gender specific language throughout regulation.

ARTICLE 8. OTHER REPORTS

Regulation 4041. COMMON CARRIER DELIVERY REPORTS.

Reference: Section 30186, Revenue and Taxation Code.

Every common carrier making a delivery of cigarettes to a consignee in this State, the shipment of which originated outside this State shall report to the board not later than the 25th day of the calendar month following the calendar month in which the delivery of the cigarettes was made, the following information concerning the shipment:

- (a) the name of the shipper and the point of origin;
- (b) the name of the consignee and the address to which delivered;
- (c) the date and number of the waybill covering the shipment;
- (d) the number of cases, bales or other containers of cigarettes delivered and the quantity of cigarettes contained therein as shown by the shipping documents; and
- (e) in the case of rail shipments, the car initials and number; and
- (f) in the case of water shipments, the name of the vessel and the number of the steamship bill of lading.

This report shall be made on a form prescribed by and filed with the board at Sacramento.

History: Adopted June 24, 1959.

Amended October 10, 1968, effective November 13, 1968.

ARTICLE 9. STAMPS

Regulation 4047. TRANSFER OF STAMPS.

Reference: Section 30164, Revenue and Taxation Code.

Without prior written approval of the board, a distributor may not sell to, transfer to, or exchange with another distributor or any other person stamps issued by the board, and may not sell, transfer or distribute packages of cigarettes accompanied by unaffixed stamps.

History: Adopted June 24, 1959.

Amended September 26, 2001, effective February 15, 2002. Added "Without prior written approval of the board," change "shall" to "may" after "distributor", and replaced "A distributor shall" with "and may".

Regulation 4048. MANNER OF AFFIXING STAMPS.

Reference: Section 30162, Revenue and Taxation Code.

Tax stamps shall be securely affixed to the bottom end of each standard package of 20 cigarettes. When affixed to "flats" or "rounds" the stamps shall be securely affixed to the lid or top of the individual package. Tax stamps shall not be affixed to the carton or larger container of cigarettes.

History: Adopted June 24, 1959.

Regulation 4049. ADHERENCE OF STAMPS.

Reference: Sections 30162, 30163, Revenue and Taxation Code.

Tax stamps shall be affixed in such manner as to adhere securely to each package of cigarettes. If packages of cigarettes are wrapped in or covered by some substance to which the stamps do not readily adhere, such wrapper or covering must be roughened or treated so that the stamps will adhere securely thereto.

History: Adopted June 24, 1959.

ARTICLE 10. METERING MACHINES AND IMPRESSIONS

Regulation 4051. METERING MACHINES.

Reference: Section 30164, Revenue and Taxation Code.

Only those metering machines as are approved by the board shall be employed for affixing meter impressions to packages of cigarettes. A distributor shall not affix meter impressions to packages of cigarettes unless he has first obtained authorization from the board to employ this method of affixation.

History: Adopted June 24, 1959.

Regulation 4052. METERING MACHINE REQUIREMENTS.

Reference: Section 30164, Revenue and Taxation Code.

A distributor desiring to use a metering machine shall apply to the board for authorization. The following terms and conditions are applicable to the use of metering equipment by a distributor:

- (a) impressions will be made only by means of machines approved by the board and meters registered with the board;
- (b) only clear and legible imprints will be used on packages of cigarettes distributed;
- (c) impressions by a meter registered to the distributor will be made only on packages of cigarettes owned by the distributor;
- (d) only ink approved by the board will be used;
- (e) each meter will be kept in a safe place when not in use, and will be safeguarded when being transported;
- (f) in case of theft, loss or mysterious disappearance of a meter or tampering therewith, the incident will be immediately reported to the board, to proper police authorities, and to the meter manufacturer;
- (g) no meter will be transferred or otherwise disposed of without prior written permission of the board;
- (h) no repairs will be made to a meter except by a duly authorized representative of the meter manufacturer and upon prior approval of the board; and
- (i) any meter having a broken seal will be immediately reported to the board and to the manufacturer and will not be used by the distributor.

CIGARETTE AND TOBACCO PRODUCTS TAX REGULATIONS

History: Adopted June 24, 1959.
Amended January 12, 1968.

Regulation 4053. REVOCATION OF PERMISSION.

Reference: Section 30148, Revenue and Taxation Code.

If a distributor issues illegible meter impressions or violates any regulation of the board relative to the use of metering machines, the board may revoke its authorization to the distributor to affix meter impressions to packages of cigarettes.

History: Adopted June 24, 1959.

Regulation 4054. MANNER OF AFFIXING METER IMPRESSIONS.

Reference: Section 30162, Revenue and Taxation Code.

Tax meter impressions shall be clearly imprinted to the bottom end of each standard package of 20 cigarettes. Meter impressions shall not be imprinted on any package, carton, or container of cigarettes containing other than 20 cigarettes. All dies and other equipment must be regularly serviced and cleaned according to the instructions issued by the manufacturers of the equipment.

History: Adopted June 24, 1959.
Former Regulation 4054 repealed September 13, 1961, and former Regulation 4055 renumbered as 4054.

ARTICLE 10.5. PURCHASE OF TAX INDICIA

Regulation 4055. WHERE PURCHASED; DISTRIBUTORS' DISCOUNT.

Reference: Sections 30161, 30162, 30166, and 30167, Revenue and Taxation Code.

Cigarette tax stamps and meter register settings allowing the imprinting of meter impressions may be purchased by licensed distributors through stamp orders submitted to the board. Orders must include the distributor's account number, distributor's name and address, the quantity of stamps for each denomination, order date and the signature of the authorized individual. The tax stamps and meter register settings may be purchased for cash, and when authority has been granted in writing to a distributor, the tax stamps and meter register settings may be purchased on a deferred payment basis. In either case, a discount as provided by law will be allowed to a licensed distributor.

History: Adopted September 13, 1961.
Amended January 12, 1968.
Amended September 26, 2001, effective February 15, 2002. Replaced "designated branch offices of banks located throughout the State. A list of the bank branch offices designated to sell stamps and set meter registers is available at offices of the board" with "locations designated by the board" and replaced "indicia" with "tax stamps and meter register settings."
Amended November 15, 2005, effective March 9, 2006. Replaced "at locations designated by the Board" with "through stamp orders submitted to the Board" in first sentence. Added new sentence "Orders must include the distributor's account number, distributor's name and address, the quantity of stamps for each denomination, order date and the signature of the authorized individual."

Regulation 4056. UNITS OF SALE; MINIMUM SALES.

Reference: Sections 30161 and 30162, Revenue and Taxation Code.

Cigarette tax stamps designated for packages containing 10 cigarettes, 20 cigarettes and 25 cigarettes will be sold in rolls containing 1,200 or 30,000 stamps. Such stamps are sold in full rolls only and the smallest sale unit is one roll. The Board, at its discretion, may authorize the use of stamps of other denominated values and specifications.

CIGARETTE AND TOBACCO PRODUCTS TAX REGULATIONS

History: Adopted September 13, 1961.

Amended January 12, 1968.

Amended June 22, 1983, effective October 6, 1983. Added sentence authorizing use of stamps of "other denominated values and specifications."

Amended September 26, 2001, effective February 15, 2002. Amended regulation to reflect stamp denominations currently sold by board and to delete reference to water-applied stamps and meter register settings.

Amended November 15, 2005, effective March 9, 2006. Amended regulation to replace "heat-applied decal tax stamps" with "cigarette tax stamps" and to delete reference to multiple stamp denominations sold by the board.

Regulation 4057. CASH SALES OF TAX STAMPS OR METER REGISTER SETTINGS.

Reference: Sections 30161, 30162, and 30166, Revenue and Taxation Code.

Every distributor desiring to purchase tax stamps or meter register settings for cash shall file an application to register the individual authorized to order cigarette tax stamps, on a form approved by the board. The distributor shall identify and authorize in writing on the form the individual who may order stamps or meter register settings for this distributor's account and include the signature of the individual authorized to submit the tax stamp orders. If a distributor wishes to allow multiple individuals to submit cigarette tax stamp orders, a separate application is required for each individual authorized to order cigarette tax stamps. Orders for stamps or meter register settings shall be made by the distributor on order forms approved by the board. The distributor's authorization of such individual(s) shall continue in effect until written notice of revocation of the authority is delivered to the board by registered mail or until written acknowledgment of receipt of the revocation is given by the board. Payment must be made for cash purchases at the time the stamps or meter register settings are ordered. The board may require cash, electronic fund transfer or certified or cashier's checks in payment of such purchases.

History: Adopted September 13, 1961.

Amended September 26, 2001, effective February 15, 2002. Changed "bank branch office" to "location", changed "indicia" to "stamps or meter register settings", added "meter register settings" after "time the stamps." And deleted gender-specific language. Removed "or the meter is set and sealed. The State requires the bank to make an immediate deposit into the State Treasury for cash purchases and the bank is not permitted to extend credit therefor on behalf of the State" after "are received."

Amended November 15, 2005, effective March 6, 2006. Amended first sentence to change requirement for "[e]very distributor desiring to purchase tax stamps or meter settings for cash shall file a 'Cigarette Tax Signature Card' to "shall file an application to register the individual authorized to order cigarette stamps, on a form approved by the board." Deleted wording, "with the designated location where he or she will make his or her cash purchases of the tax stamps or meter register settings", after "on a form approved by the board." Added second and third sentence to clarify "the distributor shall identify and authorize in writing on the form the individual who may order stamps or meter register settings for this distributor's account and include the signature of the individual authorized to submit the tax stamp orders." If a distributor wishes to allow multiple individuals to submit cigarette tax stamp orders, a separate application is required for each individual authorized to order cigarette tax stamps." Added new provision in fifth sentence to clarify "the distributor's authorization of such individual(s) shall continue in effect until written notice of revocation of the authority is delivered to the board by registered mail or until written acknowledgment of receipt of the revocation is given by the board." Amended requirement for cash payments to be made at the time the stamp or meter register settings are "received" to "ordered" and amended wording in last sentence to reflect that the board may require electronic funds transfer in payment of such purchases.

Regulation 4058. APPLICATION FOR CREDIT PURCHASES.

Reference: Sections 30142, 30162, 30167 and 30168, Revenue and Taxation Code.

Every distributor desiring to purchase tax stamps or meter register settings on the deferred payment basis shall request the board to set the maximum amount of such purchases the distributor may have unpaid at any time and the amount of the required security.

The board shall set the amounts and notify the distributor by mail of the maximum amount of deferred payment purchases that the distributor may have unpaid at any time and the amount of the required security. The maximum amount of tax stamps or meter register setting purchases for which the distributor may defer payment as determined by the board shall not exceed twice the distributor's average monthly tax liability, based on the distributor's previous six

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months' experience, or in the case of a distributor not previously authorized to make deferred payment purchases or a distributor the character of whose business has changed substantially, the maximum amount shall not exceed twice the estimated average monthly tax liability as determined by the board.

The distributor shall provide to the board a surety bond or deposit in lieu of security in an amount equal to not less than 70 percent of the maximum amount, or more than twice the amount, of deferred payment purchases the distributor may have unpaid at any time as determined by the board.

If the distributor elects, under Section 30168, to make payments on a twice-monthly basis, the distributor shall provide to the board a surety bond or deposit in lieu of security in an amount equal to not less than 50 percent of the maximum amount, or more than twice the amount, of deferred payment purchases the distributor may have unpaid at any time as determined by the board.

History: Adopted September 13, 1961.

Amended January 12, 1968.

Amended October 25, 1972, effective November 30, 1972.

Amended September 26, 2001, effective February 15, 2002. Changed "bond" to "security." In second paragraph, changed "send" to "notify," changed "form BT353 showing" to "by mail of," changed "indicia" to "tax stamps or meter register settings," changed "shall be set by the board at not to exceed one and one half times" to "as determined by the board shall not exceed twice", and changed "be set at one and one halftimes" to "not exceed twice." In the third paragraph, deleted the first sentence and part of the second sentence, which addressed the form a distributor used to indicate the location where it intended to purchase stamps. Added "The distributor shall provide to the board", deleted "shall accompany the application and shall be" after "security," added "not less than" before "70 percent," replaced "total" with "maximum amount, or more than twice the amount of," and added "as determined by the board."

Amended November 15, 2005, effective March 6, 2006. Added unnumbered fourth paragraph to clarify requirements for distributors that may elect, under Section 30168, to make payments on a twice-monthly basis.

Regulation 4059. AUTHORIZATION FOR CREDIT PURCHASES.

Reference: Sections 30162, 30167, and 30169, Revenue and Taxation Code.

(a) Upon approval of a distributor's request to purchase tax stamps or meter register settings on the deferred payment basis, and receipt of the required security, the board shall give written authorization to the distributor for the amount of deferred payment purchases the distributor may have unpaid at any time.

(b) Before making deferred payment purchases of tax stamps and meter register settings, the distributor shall file an application to register the person authorized to order cigarette tax stamps on behalf of the distributor on a form approved by the board. The distributor shall identify and authorize in writing on the form the individual who may order purchases of stamps or meter register settings for this distributor's account and include the signature of the individual authorized to submit the tax stamp orders. If a distributor wishes to allow multiple individuals to submit cigarette tax stamp orders, a separate application form must be submitted for each individual. The distributor's authorization of such individual(s) shall continue in effect until written notice of revocation of the authority is delivered to the board by registered or certified mail or until written acknowledgment of receipt of the revocation is given by the board.

(c) Orders for stamps or meter register settings shall be made by the distributor on order forms approved by the board.

History: Adopted September 13, 1961.

Amended January 12, 1968.

Amended September 26, 2001, effective February 15, 2002. Replaced "bank branch office" with "designated location" throughout and removed gender-specific language. In subdivision (a), replaced "receipt of the completed application" with "approval of a distributor's request to purchase tax stamps or meter register settings on the deferred payment basis" and added "receipt of" before "the required security." In subdivision (b), replaced "indicia" with "stamps and meter register settings." In subdivision (c), replaced "digits to be set" with "settings."

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Amended November 15, 2005, effective March 6, 2006. In subdivision (a), added "to the distributor" before "for the amount," and deleted "to the distributor and the designated location where such purchases are to be made" after "at any time." In subdivision (b), replaced "Cigarette Tax Signature Card" with "an application to register the person authorized to order cigarette stamps on behalf of the distributor on a form approved by the board." Deleted, "with each designated location where the distributor will make credit purchases" after "on a form approved by the board." Added new language to clarify "the distributor shall identify and authorize in writing on the form the individual who may order stamps or meter register settings for this distributor's account and include the signature of the individual authorized to submit the tax stamp orders. If a distributor wishes to allow multiple individuals to submit cigarette tax stamp orders, a separate application form must be submitted for each individual." Deleted "designated location" throughout. In subdivision (c), deleted "to the designated location" after "distributor."

Regulation 4060. PAYMENT FOR CREDIT PURCHASES.

Reference: Sections 30162, 30167, and 30168, Revenue and Taxation Code.

Payment for all deferred payment purchases of tax stamps or meter register settings made during each calendar month must be made to the board or the board's designee by the 25th day of the calendar month following the month in which the purchases were made. Remittance for such purchases shall be made payable to "State Board of Equalization." The privilege of making deferred payment purchases shall be suspended as long as a delinquent balance is owing therefor.

History: Adopted September 13, 1961.

Amended January 12, 1968.

Amended October 10, 1968, effective November 13, 1968.

Amended September 26, 2001, effective February 15, 2002. Replaced "indicia" with "stamps or meter register settings" and "bankbranch location" with "designated location."

Amended November 15, 2005, effective March 9, 2006. Replaced "at the designated location where the purchases were made, and must be made" with "to the board or the board's designee."

ARTICLE 11. REFUNDS FOR STAMPS AND METER IMPRESSIONS

Regulation 4061. UNUSED STAMPS AND UNUSED METER SETTINGS.

Reference: Sections 30162 and 30176, Revenue and Taxation Code.

(a) The board will refund or credit to a distributor the denominated value, less the purchase discount, of any identifiable unused stamps which are returned to the board. The board will refund or credit to a distributor the denominated value, less the purchase discount, of any verifiable meter setting remaining on a meter when the meter is returned to the bank for cancellation of the meter setting. A claim for refund or credit must be made on Board of Equalization Form BOE-1024 entitled "Claim For Refund For California Cigarette Tax Stamps" and filed with the board, providing the following information: distributor's name, account number, address, telephone number, date, district office, number and type of cigarette tax stamps being claimed for refund, amount of claim for each type of cigarette tax stamp being claimed for refund, total amount of claim less discount of .0085, and reason for claim. The form further requires acknowledgement by a board representative and his or her supervisor of receipt of the cigarette tax stamps being claimed for refund and certification by a board representative of the receipt and destruction of the cigarette tax stamps being claimed for refund.

(b) "Unused stamp" means a tax stamp on a tax stamp roll or on a package of cigarettes which is not yet distributed and includes only those stamps on which 4 of the 5 characters of the stamp's serial number can be identified. If fewer than 4 characters in the stamp's serial number can be identified, the distributor shall provide evidence concerning the remainder of the tax stamp to show that the remainder of the stamp is not affixed to a package of cigarettes that has been distributed. Such proof may include, but is not limited to, the paper from the stamp roll or package of cigarettes to which the remainder of the stamp is affixed. If the stamp is of a design generated by a technology capable of being read by a scanning or similar device, a majority of the stamp must be present and should be able to be read by a scanning or similar device in accordance with Section 30162. Alternatively, as evidence of unused stamps, a distributor may return damaged stamps in such a form that a board representative is otherwise able to verify authenticity and that the stamps have not been used.

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(c) If the refund or credit is for tax stamps that are affixed to packages of cigarettes, an authorized board employee, upon verification that the refund or credit is due, shall ensure that the distributor obliterated the stamp with the use of a permanent marker.

(d) If the refund or credit is for tax stamps remaining on a roll, upon verification that the refund or credit is due, the roll shall be returned to the board for destruction.

History: Adopted June 24, 1959.

Amended August 3, 1960.

Amended September 13, 1961.

Amended January 12, 1968.

Amended August 1, 2001, effective June 12, 2002. Added reference to Form BOE-1024 and subdivision (b), (c) and (d).

Amended November 15, 2005, effective March 9, 2006. Added new language in subdivision (b), "If the stamp is of a design generated by a technology capable of being read by a scanning or similar device, a majority of the stamp must be present and should be able to be read by a scanning or similar device in accordance with Section 30162. Alternatively, as evidence of unused stamps, a distributor may return damaged stamps in such a form that a board representative is otherwise able to verify authenticity and that the stamps have not been used," to define and describe the criteria for when the new tax stamp, designed in accordance with Revenue and Taxation Code section 30162, will qualify as an unused stamp.

Regulation 4062. DESTROYED STAMPS AND METERS.

Reference: Section 30176, Revenue and Taxation Code.

The board will refund or credit to a distributor the denominated value, less the purchase discount, of any stamps, or unused meter register settings, when the stamps or the meter have been destroyed by fire, flood or other casualty prior to the affixation of the tax stamps or meter impressions to packages of cigarettes. The distributor must establish by clear and convincing evidence that the stamps or meter were destroyed by fire, flood or other casualty and the denominated value of the stamps or remaining meter register balance. Theft or mysterious disappearance of unaffixed stamps or of a meter shall not constitute a casualty for which refund or credit will be given.

History: Adopted January 12, 1968.

Former Regulation 4062 amended and renumbered 4065, January 12, 1968.

Amended September 26, 2001, effective February 15, 2002. Changed "meter register settings remaining on a meter" to "unused meter register settings" and changed "indicia" to "stamps or meter impressions".

Regulation 4063. DESTROYED CIGARETTES.

Reference: Section 30177, Revenue and Taxation Code.

The board will refund or credit to a distributor the denominated value, less the purchase discount, of stamps or meter impressions affixed to packages of cigarettes which have been destroyed by fire, flood or other casualty, prior to distribution. The distributor must establish by clear and convincing evidence that the cigarettes were destroyed by fire, flood or other casualty prior to distribution and the denominated value of the affixed tax stamps or meter impressions. The theft or mysterious disappearance of packages of cigarettes shall not constitute a casualty for which refund or credit will be given.

History: Adopted June 24, 1959.

Amended August 3, 1960.

Amended September 13, 1961.

Amended September 26, 2001, effective February 15, 2002. Changed "indicia" to "tax stamps or meter impressions."

Regulation 4063.5. EXPORTED TAX-PAID TOBACCO PRODUCTS.

Reference: Sections 30176.1, 30178.1, 30178.2 and 30179.1, Revenue and Taxation Code.

The board will refund or credit to a distributor the tax paid on tobacco products which are:

(a) Shipped to a point outside this state, pursuant to a contract of sale, by delivery by the distributor to such point by means of:

- (1) facilities operated by the distributor;
- (2) delivery by the distributor to a carrier for shipment to a consignee at such point, or
- (3) delivery by the distributor to a customs broker or forwarding agent for shipment outside this state.

(b) Sold to a foreign purchaser for shipment abroad and delivered to a ship, airplane, or other conveyance furnished by the purchaser for the purpose of carrying the cigarettes or tobacco products abroad and actually carried to a foreign destination.

(c) Sold for use solely outside this state and delivered to a forwarding agent, export packer, or other person engaged in the business of preparing goods for export or arranging for their exportation, and actually delivered to a port outside the continental limits of the United States.

The distributor must file the claim for refund on Board of Equalization Form BOE-1024-T entitled "Claim for Refund – Exported Tax-Paid Tobacco Products" and provide copies of documentation to support payment of taxes, as well as bills of lading or other documentary evidence of the delivery of the tobacco products to a carrier, customs broker or forwarding agent for shipments outside this state. The original documents must be retained by the distributor for inspection by employees of the board. In the case of tobacco products for foreign export, copies of United States Customs shipper's export declarations filed with the Collector for Customs or other documentary evidence of export must be obtained and retained. No refund or credit will be given if the tobacco products are diverted in transit or for any reason are not actually delivered outside the state pursuant to the contract of sale or are not shipped abroad by a foreign purchaser. Any application for refund or credit based upon the exportation of tax-paid tobacco products from this state shall be filed with the board within three months after the close of the calendar month in which the tobacco products are exported.

History: Adopted September 26, 2001, effective February 15, 2002.

Regulation 4064. CLAIM FORMS.

Reference: Sections 30176, 30176.1 and 30177, Revenue and Taxation Code.

A claim for refund or credit made pursuant to Regulations 4061, 4062, 4063 or 4063.5 must be made on a form prescribed by and filed with the board.

History: Adopted January 12, 1968.

Former Regulation 4064 renumbered 4067 January 12, 1968.

Amended September 26, 2001, effective February 15, 2002. Added "or 4063.5".

Regulation 4065. UNSALABLE CIGARETTES.

Reference: Section 30177, Revenue and Taxation Code.

The board will refund or credit to a distributor the denominated value, less the purchase discount, of identifiable stamps or meter impressions affixed to packages of cigarettes which have become unfit for use or unsalable before distribution, or after distribution if the cigarettes have been returned for credit or have been replaced and proof is submitted to the board showing that the cigarettes have not been used for smoking in California. Claim for refund or credit must be made on a form prescribed by the board and shall be accompanied by a properly executed receipt and a copy of the credit memorandum of the manufacturer for returned stock, or by proof of destruction of the cigarettes with the tax stamps or meter impressions thereon in the presence of an employee of the board authorized to witness the destruction.

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History: Adopted June 24, 1959.

Formerly Regulation 4062, amended and renumbered 4065, January 12, 1968.

Amended September 26, 2001, effective February 15, 2002. Changed "indicia" to "stamps or meter impressions".

Regulation 4066. STOLEN INDICIA.

Reference: Sections 30176, 30177, Revenue and Taxation Code.

Refund or credit will not be given for stamps, meter settings or meter impressions which are lost through theft or mysterious disappearance of any unaffixed stamps, any meter, or any packages of cigarettes to which stamps or meter impressions have been affixed. If identifiable stamps, meter settings or meter impressions which have been lost through theft or mysterious disappearance are later recovered, credit or refund may be given under Sections 4061 or 4065.

History: Adopted January 12, 1968.

ARTICLE 13. PARTICULAR TRANSACTIONS

Regulation 4080. INTERSTATE AND FOREIGN COMMERCE.

Reference: Section 30008, Revenue and Taxation Code.

The tax does not apply to sales of cigarettes or tobacco products which are:

(a) Shipped to a point outside this State, pursuant to a contract of sale, by delivery by the seller to such point by means of:

- (1) facilities operated by the seller;
- (2) delivery by the seller to a carrier for shipment to a consignee at such point; or
- (3) delivery by the seller to a customs broker or forwarding agent for shipment outside this State.

(b) Sold to a foreign purchaser for shipment abroad and delivered to a ship, airplane, or other conveyance furnished by the purchaser for the purpose of carrying the cigarettes or tobacco products abroad and actually carried to a foreign destination.

(c) Sold for use solely outside this State and delivered to a forwarding agent, export packer, or other person engaged in the business of preparing goods for export or arranging for their exportation, and actually delivered to a port outside the continental limits of the United States.

Bills of lading or other documentary evidence of the delivery of the cigarettes or tobacco products to a carrier, customs broker or forwarding agent for shipments outside the State must be retained by the distributor for inspection by employees of the board. In the case of cigarettes or tobacco products for foreign export, copies of United States Customs shippers' export declarations filed with the Collector of Customs or other documentary evidence of export must be obtained and retained. The tax applies to the transaction if the cigarettes or tobacco products are diverted in transit or for any reason are not actually delivered outside the State pursuant to the contract of sale or are not shipped abroad by a foreign purchaser, regardless of documentary evidence held by the distributor.

History: Adopted June 24, 1959.

Amended September 26, 2001, effective February 15, 2002. Added references to tobacco products.

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Regulation 4081. SAMPLE CIGARETTES AND TOBACCO PRODUCTS.

Reference: Sections 30005, 30005.5, 30008, and 30009, Revenue and Taxation Code.

The giving away in this state of untaxed cigarettes or tobacco products as samples is a taxable distribution.

Manufacturers' agents or representatives may for advertising purposes, as permitted by state law and the terms of the November 23, 1998 Master Settlement Agreements with the state which are applicable to the signatories to those Agreements, distribute to consumers packages of cigarettes without stamps or meter impressions affixed to the packages or untaxed tobacco products. However, the manufacturer giving away such sample cigarettes or tobacco products must report the distribution on its monthly report or return and pay the tax due. Each package of such sample cigarettes shall have imprinted on it: "Not for Sale. Applicable state tax has been paid." and each package of sample tobacco products shall be clearly marked as a sample.

Cigarette manufacturers shall notify the board in writing in advance of the sampling, giving information as to the approximate date or dates, location or locations, brand, and method of distribution.

History: Adopted September 13, 1961.

Amended January 12, 1968.

Amended April 11, 1972, effective May 14, 1972.

Amended September 26, 2001, effective February 15, 2002. Added references to tobacco products. In second paragraph, added "as permitted by state law . . . those Agreements," added "or return" after "report", and added "and each package of sample tobacco products . . . sample." In the third paragraph, added "Cigarette" before "manufacturers and deleted "volume" after "brand".

ARTICLE 15. VENDING MACHINES

Regulation 4089. STATEMENT OF OPERATOR.

Reference: Sections 30008, 30147, Revenue and Taxation Code.

A statement in substantially the following form must be affixed by the operator thereof upon each cigarette vending machine in a conspicuous place:

"This vending machine is operated by

Name of Operator

Place of Business of Operator

who holds Permit No. _____, issued

pursuant to the Sales and Use Tax Law"

History: Adopted June 24, 1959.

ARTICLE 16. PAYMENT BY CONSUMER OR USER

Regulation 4091. PAYMENT BY CONSUMER.

Reference: Sections 30005, 30005.5, 30106, 30107 and 30108, Revenue and Taxation Code.

(a) Each consumer or user of cigarettes or tobacco products subject to the tax, resulting from the consumer having:

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(1) purchased cigarettes or tobacco products in any quantity, when such cigarettes or tobacco products are shipped to the consumer from out of state,

(2) personally transported or brought into the state untaxed cigarettes in quantities of more than 400 cigarettes in a single lot for his or her own use or consumption, or

(3) obtained more than 400 untaxed cigarettes at one time from a federal instrumentality listed in Revenue and Taxation Code section 30102, must pay the tax either to the licensed or registered distributor under the Cigarette and Tobacco Products Tax Law from whom the cigarettes or tobacco products were purchased, or directly to the board if the person from whom the cigarettes or tobacco products were purchased is not a licensed or registered distributor. A person who pays the tax directly to the Board must file a certified Board of Equalization Form BOE-501-CI entitled "Cigarette and Tobacco Products Excise Tax Return," and report the brand name, seller's name, seller's internet address or phone number, date received, and number of cartons or type and cost of tobacco products received.

(b) Consumers or users will be liable for payment of the tax to the board unless receipts as provided by Regulation 4092 are obtained for payment of the tax to the distributor.

History: Adopted June 24, 1959.

Amended September 13, 1961.

Amended October 10, 1968, effective November 13, 1968.

Amended November 5, 1970, effective December 10, 1970.

Amended September 26, 2001, effective February 15, 2002. Added references to tobacco products and removed gender-specific language.

Divided regulation into subdivisions (a), (a)(1), (a)(2), (a)(3) and (b). In subdivision (a)(1), replace "which" with "when such", in subdivision (a)(2), changed "his having himself transported" to "personally transported", and in subdivision (a)(3), removed "having" before "obtained", and added "A person who pays the . . . and cost of tobacco products received". Deleted references to (a) and (b) at end of subdivision (a) and added "either" before "to the licensed or registered distributor".

Regulation 4092. RECEIPTS FOR TAX PAID TO DISTRIBUTORS.

Reference: Section 30108, Revenue and Taxation Code.

Every distributor required to collect the tax under Revenue and Taxation Code Section 30108 must give a receipt to each purchaser for the amount of tax collected. The receipt need not be in any particular form but must show the following:

(a) the name and place of business of the distributor making the sale or accepting the order for cigarettes or tobacco products;

(b) the license number or registration number of the distributor;

(c) the name and address of the purchaser;

(d) the number of cigarettes or type, quantity, and wholesale cost of all tobacco products purchased;

(e) the date the cigarettes or tobacco products were purchased; and

(f) the amount of tax collected by the distributor or statement indicating that the tobacco products tax has been paid.

A sales invoice containing the data required above, together with evidence of payment thereof, will constitute a receipt.

History: Adopted June 24, 1959.

Amended September 26, 2001, effective February 15, 2002. Added references to tobacco products, added "Revenue and Taxation Code" after "under", deleted "of Cigarette Tax Law" following "Section 30108", added "or type, quantity . . . products" to subdivision (d), and added "or statement indicating . . . paid" to subdivision (f).

ARTICLE 18. MISCELLANEOUS

Regulation 4099. AFFIXING OF STAMPS OR METER IMPRESSIONS OUT-OF-STATE.

Reference: Sections 30011, 30140.1, 30162, Revenue and Taxation Code.

Any person who maintains a place of business in the United States and distributes cigarettes in this State may obtain a Distributor's License and, when authorized in writing, may affix stamps or meter impressions to packages of cigarettes at such place of business before the cigarettes are brought into this State.

History: Adopted June 24, 1959.

Regulation 4105. RELIEF FROM LIABILITY.

Reference: Section 30284, Revenue and Taxation Code.

A person may be relieved from the liability for the payment of the Cigarette and Tobacco Products Tax, including any penalties and interest added to the tax, when that liability resulted from the failure to make a timely return or a payment and such failure was found by the board to be due to reasonable reliance on written advice given by the board as described in California Code of Regulations, Title 18, Section 4902.

History: Adopted February 5, 2003, effective May 28, 2003. The underscored citation indicates an electronic hyperlink to the cite. Common administrative provisions for special taxes programs have been consolidated in Chapter 9.9 Special Taxes Administration. Requirements for relief from liability can be found at the referenced cite.

CHAPTER 9.9 SPECIAL TAXES ADMINISTRATION – MISCELLANEOUS

Regulation 4901. RECORDS.

Reference: Sections 8301, 8302, 8303, 8304, 9253, 9254, 30453, 30454, 32551, 32453, 40172, 40173, 40174, 40175, 41056, 41073, 41129.30, 43502, 45852, 46602, 46603, 50153, 55302, 60604, 60605, and 60606, Revenue and Taxation Code.

(a) DEFINITIONS.

(1) "Applicable Tax Laws" means any of the following:

- (A) Aircraft Jet Fuel Tax, Revenue and Taxation Code Sections 7385-7398, 7486-8406;
- (B) Alcoholic Beverage Tax, Revenue and Taxation Code Sections 32001-32557;
- (C) Ballast Water Management Fee, Public Resources Code Sections 71200-71271; Revenue and Taxation Code Sections 44000-44008, 55001-55381;
- (D) California Tire Fee, Public Resources Code Sections 42860-42895; Revenue and Taxation Code Sections 55001-55381;
- (E) Childhood Lead Poisoning Prevention Fee, Health and Safety Code Section 105310; Revenue and Taxation Code Sections 43001-43651;
- (F) Cigarette and Tobacco Products Tax, Revenue and Taxation Code Sections 30001-30481;
- (G) Diesel Fuel Tax, Revenue and Taxation Code Sections 60001-60709;
- (H) Emergency Telephone Users Surcharge, Revenue and Taxation Code Sections 41001-41176;
- (I) Energy Resources Surcharge, Revenue and Taxation Code Sections 40001-40216;
- (J) Hazardous Substances Tax, Health and Safety Code Sections 25174.1, 25205.2, 25205.5, 25205.6, and 25205.7; Revenue and Taxation Code Sections 43001-43651;

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(K) Integrated Waste Management Fee, Public Resources Code Sections 40000-48008; Revenue and Taxation Code Sections 45001-45984;

(L) Motor Vehicle Fuel Tax, Revenue and Taxation Code Sections 7301-8526;

(M) Natural Gas Surcharge, Public Utilities Code Sections 890-900; Revenue and Taxation Code Sections 55001-55381;

(N) Occupational Lead Poisoning Prevention Fee, Health and Safety Code Section 105190; Revenue and Taxation Code Sections 43001-43651;

(O) Oil Spill Response, Prevention, and Administration Fees, Revenue and Taxation Code Sections 46001-46751;

(P) Underground Storage Tank Maintenance Fee, Revenue and Taxation Code Sections 50101-50162;

(Q) Use Fuel Tax, Revenue and Taxation Code Sections 8601-9355.

(2) "Database Management System" — a software system that controls, relates, retrieves, and provides accessibility to data stored in a database.

(3) "Electronic data interchange" or "EDI technology" — the computer to computer exchange of business transactions in a standardized structured electronic format.

(4) "Hardcopy" — any document, record, report or other data maintained in a paper format.

(5) "Machine-sensible record" — a collection of related information in an electronic format. Machine-sensible records do not include hardcopy records that are created or recorded on paper or stored in or by a storage-only imaging system such as microfilm or microfiche.

(6) "Taxpayer" includes "fee payer" and means any person liable for the payment of a tax or a fee specified under any of the applicable tax laws.

(7) "Tax" includes "fee" and means any amount of tax or fee specified under any of the applicable tax laws.

(b) GENERAL.

(1) A taxpayer shall maintain and make available for examination on request by the board or its authorized representative, all records necessary to determine the correct tax liability under the applicable tax laws and all records necessary for the proper completion of the required tax return or report. Such records include but are not limited to:

(A) Books of account or other similar summary information ordinarily maintained by the taxpayer as required by law or practice or otherwise in the possession of the taxpayer or third party at the direction or request of the taxpayer.

(B) Bills, receipts, invoices, cash register tapes, or other documents of original entry supporting the entries in the books of account.

(C) Schedules or working papers used in connection with the preparation of tax returns and reports.

(2) Machine-sensible records are considered records under Revenue and Taxation Code Sections 8301-8306, 9253, 9254, 30453, 30454, 32551, 32453, 40172-40175, 41056, 41073, 41129.30, 43502, 45852, 46602, 46603, 50153, 55302, 60604-60606, Revenue and Taxation Code.

(c) MACHINE-SENSIBLE RECORDS.

(1) General.

(A) Machine-sensible records used to establish tax compliance shall contain sufficient source document (transaction-level) information so that the details underlying the machine-sensible records can be identified and made available to the board upon request. A taxpayer has discretion to discard duplicated records and redundant information provided the integrity of the audit trail is preserved and the responsibilities under this regulation are met.

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(B) At the time of an examination, the retained records must be capable of being retrieved and converted to a standard magnetic record format which the board has the technological capability to use, such as Extended Binary Coded Decimal Interchange Code (EBCDIC) or American Standard Code for Information Interchange (ASCII) flat file.

(C) Taxpayers are not required to construct machine-sensible records other than those created in the ordinary course of business. A taxpayer who does not create the electronic equivalent of a traditional paper document in the ordinary course of business is not required to construct such a record for tax purposes.

(2) ELECTRONIC DATA INTERCHANGE REQUIREMENTS.

(A) Where a taxpayer uses electronic data interchange (EDI) processes and technology, the level of record detail, in combination with other records related to the transactions, must be equivalent to that contained in an acceptable paper record. For example, the retained records should contain such information as vendor name, invoice date, product description, quantity purchased, price, amount of tax, indication of tax status (e.g., exempt), and shipping detail. Codes may be used to identify some or all of the data elements, provided the taxpayer maintains a method which allows the board to interpret the coded information.

(B) The taxpayer may capture the information necessary to satisfy subdivision (c)(2)(A) at any level within the accounting system and need not retain the original EDI transaction records provided the audit trail, authenticity, and integrity of the retained records can be established. For example, a taxpayer using EDI technology receives electronic invoices from its suppliers. The taxpayer decides to retain the invoice data from completed and verified EDI transactions in its accounts payable system rather than to retain the EDI transactions themselves. Since neither the EDI transaction nor the accounts payable system capture information from the invoice pertaining to product description and vendor name (i.e., they contain only codes for that information), the taxpayer must also retain other records, such as its vendor master file and product code description lists, and make them available to the board. In this example, the taxpayer need not retain its EDI transaction for tax purposes.

(3) ELECTRONIC DATA PROCESSING SYSTEMS REQUIREMENTS. The requirements for an electronic data processing (EDP) accounting system should be similar to that of a manual accounting system, in that an adequately designed accounting system should incorporate methods and records that will satisfy the requirements of this regulation.

(4) BUSINESS PROCESS INFORMATION.

(A) Upon request of the board, the taxpayer shall provide a description of the business process that created the retained records. Such description shall include the relationship between the records and the tax documents prepared by the taxpayer and the measures employed to ensure the integrity of the records.

(B) The taxpayer shall be capable of demonstrating:

1. the functions being performed as they relate to the flow of data through the system;
2. the internal controls used to ensure accurate and reliable processing, and;
3. the internal controls used to prevent unauthorized addition, alteration, or deletion of retained records.

(C) The following specific documentation is required for machine sensible records retained pursuant to this regulation:

1. record formats or layouts;
2. field definitions (including the meaning of all codes used to represent information);
3. file descriptions (e.g., data set name); and
4. detailed charts of accounts and account descriptions.

(d) MACHINE-SENSIBLE RECORDS MAINTENANCE REQUIREMENTS

(1) The taxpayer's computer hardware or software shall accommodate the extraction and conversion of retained machine-sensible records to a standard magnetic record format as provided in subdivision (c)(1)(B).

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(2) The board recommends but does not require that taxpayers refer to the National Archives and Record Administration's (NARA) standards for guidance on the maintenance and storage of electronic records, such as the labeling of records, the location and security of the storage environment, the creation of back-up copies, and the use of periodic testing to confirm the continued integrity of the records.

(e) ACCESS TO MACHINE-SENSIBLE RECORDS.

(1) The manner in which the board is provided access to machine-sensible records may be satisfied through a variety of means that shall take into account a taxpayer's facts and circumstances through consultation with the taxpayer.

(2) Such access will be provided in one or more of the following manners:

(A) The taxpayer may arrange to provide the board with the hardware, software, and personnel resources to access the machine-sensible records.

(B) The taxpayer may arrange for a third party to provide the hardware, software, and personnel resources necessary to access the machine-sensible records.

(C) The taxpayer may convert the machine-sensible records to a standard record format specified by the board, including copies of files, on a magnetic medium that is agreed to by the board.

(D) The taxpayer and the board may agree on other means of providing access to the machine-sensible records.

(f) TAXPAYER RESPONSIBILITY AND DISCRETIONARY AUTHORITY.

(1) In conjunction with meeting the requirements of subdivision (c), a taxpayer may create files solely for the use of the board. For example, if a data base management system is used, it is consistent with this regulation for the taxpayer to create and retain a file that contains the transaction-level detail from the data base management system and that meets the requirements of subdivision (c). The taxpayer should document the process that created the separate file to show the relationship between that file and the original records.

(2) A taxpayer may contract with a third party to provide custodial or management services of the records. Such a contract shall not relieve the taxpayer of its responsibilities under this regulation.

(g) HARDCOPY RECORDS.

(1) Except as specifically provided, taxpayers are not relieved of the responsibility to retain hardcopy records that are created or received in the ordinary course of business as required by existing law and regulations. Hardcopy records may be retained on a record keeping medium as provided in subdivision (h).

(2) If hardcopy transaction level documents are not produced or received in the ordinary course of transacting business (e.g., when the taxpayer uses electronic data interchange technology), such hardcopy records need not be created.

(3) Hardcopy records generated at the time of a transaction using a credit or debit card must be retained unless all the details necessary to determine correct tax liability relating to the transaction are subsequently received and retained by the taxpayer in accordance with this regulation. Such details include those listed in subdivision (c)(2)(A).

(4) Computer printouts that are created for validation, control, or other temporary purposes need not be retained.

(h) ALTERNATIVE STORAGE MEDIA.

(1) For purposes of storage and retention, taxpayers may convert hardcopy documents received or produced in the normal course of business and required to be retained under this regulation to storage-only imaging media such as microfilm, microfiche or other media used in electronic imaging and may discard the original hardcopy documents, provided the conditions of subdivision (h) are met. Documents which may be stored on these media include, but are not limited to general books of account, journals, voucher registers, general and subsidiary ledgers, and supporting records of details, such as sales invoices, purchase invoices, exemption certificates, and credit memoranda.

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(2) Storage-only imaging media such as microfilm, microfiche or other media used in electronic imaging systems shall meet the following requirements.

(A) Documentation establishing the procedures for converting the hardcopy documents to the storage-only imaging system must be maintained and made available on request. Such documentation shall, at a minimum, contain a sufficient description to allow an original document to be followed through the conversion system as well as internal procedures established for inspection and quality assurance.

(B) Procedures must be established for the effective identification, processing, storage, and preservation of the stored documents and for making them available for the period they are required to be retained under subdivision (i).

(C) Upon request by the board, a taxpayer must provide facilities and equipment for reading, locating, and reproducing any documents maintained on storage-only imaging media

(D) When displayed on such equipment or reproduced on paper, the documents must exhibit a high degree of legibility and readability. For this purpose, legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognizable as words or complete numbers.

(E) All data on storage-only imaging media must be maintained and arranged in a manner that permits the location of any particular record.

(F) There is no substantial evidence that the storage-only imaging medium lacks authenticity or integrity.

(i) **RECORD RETENTION – TIME PERIOD.** All records required to be retained under this regulation must be preserved for a period of not less than four years unless the State Board of Equalization authorizes in writing their destruction within a lesser period.

(j) RECORD RETENTION LIMITATION AGREEMENTS.

(1) The board has the authority to enter into or revoke a record retention limitation agreement with the taxpayer to modify or waive any of the specific requirements in this regulation. A taxpayer's request for an agreement must specify which records (if any) the taxpayer proposes not to retain and provide the reasons for not retaining such records, as well as, proposing any other terms of the requested agreement. The taxpayer shall remain subject to all requirements of this regulation that are not modified, waived, or superseded by a duly approved record retention limitation agreement.

(A) If a taxpayer seeks to limit its retention of machine-sensible records, the taxpayer may request a record retention limitation agreement, which shall;

1. document understandings reached with the board, which may include, but is not limited to, any one or more of the following issues:

- a. the conversion of files created on an obsolete computer system;
- b. restoration of lost or damaged files and the actions to be taken;
- c. use of taxpayer computer resources, and

2. specifically identify which of the taxpayer's records the board determines are not necessary for retention and which the taxpayer may discard, and

3. authorize variances, if any, from the normal provisions of this regulation.

(B) The board shall consider a taxpayer's request for a record retention limitation agreement and notify the taxpayer of the actions to be taken.

(C) The board's decision to enter or not to enter into a record retention limitation agreement shall not relieve the taxpayer of the responsibility to keep adequate and complete records supporting entries shown on any tax or information return.

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(2) A taxpayer's record retention practices shall be subject to evaluation by the board when a record retention limitation agreement exists. The evaluation may include a review of the taxpayer's relevant data processing and accounting systems with respect to EDP systems, including systems using EDI technology.

(A) The board shall notify the taxpayer of the results of any evaluation, including acceptance or disapproval of any proposals made by the taxpayer (e.g., to discard certain records) or any changes considered necessary to bring the taxpayer's practices into compliance with this regulation.

(B) Since the evaluation of a taxpayer's record retention practices is not directly related to the determination of tax reporting accuracy for a particular period or return, an evaluation made under this regulation is not an "examination of records" under the applicable tax law.

(C) Unless otherwise specified, an agreement shall not apply to accounting and tax systems added subsequent to the completion of the record evaluation. All machine-sensible records produced by a subsequently added accounting or tax system shall be retained by the taxpayer in accordance with this regulation until a new evaluation is conducted by the board.

(D) Unless otherwise specified, an agreement made under this subdivision shall not apply to any person, company, corporation, or organization that, subsequent to the taxpayer's signing of a record retention limitation agreement, acquires or is acquired by the taxpayer. All machine-sensible records produced by the acquired or the acquiring person, company, corporation, or organization, shall be retained pursuant to this regulation

(3) In addition to the record retention evaluation under subdivision (j)(2), the board may conduct tests to establish the authenticity, readability, completeness, and integrity of the machine-sensible records retained under a record retention limitation agreement. The state shall notify the taxpayer of the results of such tests. These tests may include the testing of EDI and other procedures and a review of the internal controls and security procedures associated with the creation and storage of the records.

(k) FAILURE TO MAINTAIN RECORDS. Failure to maintain and keep complete and accurate records will be considered evidence of negligence or intent to evade the tax and may result in penalties or other appropriate administrative action.

History: Adopted February 5, 2003, effective May 28, 2003.

Regulation 4902. RELIEF FROM LIABILITY.

Reference: Sections 7657.1, 8879, 30284, 32257, 40104, 41098, 43159, 45157, 46158, 50112.5, 55045, and 60210, Revenue and Taxation Code.

(a) GENERAL. A person may be relieved from the liability for the payment of tax, defined in section 4901(a)(7), imposed pursuant to applicable tax laws, defined in section 4901(a)(1), including any penalties and interest added to the tax, when that liability resulted from the failure to make a timely return or a payment and such failure was found by the board to be due to reasonable reliance on:

- (1) Written advice given by the board under the conditions set forth in subdivision (b) below, or
- (2) Written advice in the form of an annotation or legal ruling of counsel under the conditions set forth in subdivision (d) below; or
- (3) Written advice given by the board in a prior audit of that person under the conditions set forth in subdivision (c) below. As used in this regulation, the term "prior audit" means any audit conducted prior to the current examination where the issue in question was examined.

Written advice from the board may only be relied upon by the person to whom it was originally issued or a legal or statutory successor to that person. Written advice from the board which was received during a prior audit of the person under the conditions set forth in subdivision (c) below, may be relied upon by the person audited or by a legal or statutory successor to that person.

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The term “written advice” includes advice that was incorrect at the time it was issued as well as advice that was correct at the time it was issued, but, subsequent to issuance, was invalidated by a change in statutory or constitutional law, by a change in board regulations, or by a final decision of a court of competent jurisdiction. Prior written advice may not be relied upon subsequent to: (1) the effective date of a change in statutory or constitutional law and board regulations or the date of a final decision of a court of competent jurisdiction regardless that the board did not provide notice of such action; or (2) the person receiving a subsequent writing notifying the person that the advice was not valid at the time it was issued or was subsequently rendered invalid. As generally used in this regulation, the term “written advice” includes both written advice provided in a written communication under subdivision (b) below and written advice provided in a prior audit of the person under subdivision (c) below.

(b) ADVICE PROVIDED IN A WRITTEN COMMUNICATION. Advice from the board provided to the person in a written communication must have been in response to a specific written inquiry from the person seeking relief from liability, or from his or her representative. To be considered a specific written inquiry for purposes of this regulation, representatives must identify the specific person for whom the advice is requested. Such inquiry must have set forth and fully described the facts and circumstances of the activity or transactions for which the advice was requested.

(c) WRITTEN ADVICE PROVIDED IN A PRIOR AUDIT. Presentation of the person’s books and records for examination by an auditor shall be deemed to be a written request for the audit report. If a prior audit report of the person requesting relief contains written evidence which demonstrates that the issue in question was examined, either in a sample or census (actual) review, such evidence will be considered “written advice from the board” for purposes of this regulation. A census, (actual) review, as opposed to a sample review, involves examination of 100% of the person’s transactions pertaining to the issue in question. For written advice contained in a prior audit of the person to apply to the person’s activity or transaction in question, the facts and conditions relating to the activity or transaction must not have changed from those which occurred during the period of operation in the prior audit. Audit comments, schedules, and other writings prepared by the board that become part of the audit work papers which reflect that the activity or transaction in question was properly reported and no amount was due are sufficient for a finding for relief from liability, unless it can be shown that the person seeking relief knew such advice was erroneous.

(d) ANNOTATIONS AND LEGAL RULINGS OF COUNSEL. Advice from the board provided to the person in the form of an annotation or legal ruling of counsel shall constitute written advice only if:

(1) The underlying legal ruling of counsel involving the fact pattern at issue is addressed to the person or to his or her representative under the conditions set forth in subdivision (b) above.

(2) The annotation or legal ruling of counsel is provided to the person or his or her representative by the board within the body of a written communication and involves the same fact pattern as that presented in the subject annotation or legal ruling of counsel.

(e) TRADE OR INDUSTRY ASSOCIATIONS. A trade or industry association requesting advice on behalf of its member(s) must identify and include the specific member name(s) for whom the advice is requested for relief from liability under this regulation.

History: Adopted February 5, 2003, effective May 28, 2003. The underscored citation indicates an electronic hyperlink to the cite.

Regulation 4905. PAYMENT BY ELECTRONIC FUNDS TRANSFER.

Reference: Sections 7659.9, 7659.92, 8760, 8762, 30190, 30192, 32260, 32262, 40067, 40069, 41060, 41062, 43170, 43172, 45160, 45162, 46160, 46162, 50112.7, 50112.9, 55050, 55052, 60250, and 60252, Revenue and Taxation Code.

(a) DEFINITIONS.

(1) “Electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer.

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(2) “Automated clearinghouse” means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(3) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person’s bank account and crediting the state’s bank account for the amount of tax or fee. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(4) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state’s bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(5) “Federal Reserve Wire Transfer” means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state’s bank account. Electronic funds transfers pursuant to Revenue and Taxation Code sections 7659.9, 8760, 30190, 32260, 40067, 41060, 43170, 45160, 46160, 50112.7, 55050, and 60250 may be made by Federal Reserve Wire Transfer only if payment cannot, for good cause, be made according to subdivision (a)(1) of this regulation, and the use of Federal Reserve Wire Transfer is preapproved pursuant to subdivision (g) of this regulation. Banking costs incurred for the Federal Reserve Wire Transfer transaction charged to the person and to the state shall be paid by the person originating the transaction.

(b) PARTICIPATION.

(1) MANDATORY PARTICIPATION. Persons with an estimated monthly tax or fee liability of twenty thousand dollars (\$20,000) or more under the applicable part of the Revenue and Taxation Code, are required to remit amounts due by electronic funds transfer under procedures set forth in this regulation. To identify mandatory participants, the Board shall conduct a periodic review of all persons with licenses, permits, or other authorization under sections 7659.9, 8760, 30190, 32260, 40067, 41060, 43170, 45160, 46160, 50112.7, 55050, and 60250. The review is performed by calculating an average monthly tax or fee liability for a twelve-month period. Persons whose average monthly tax or fee liability equals or exceeds twenty thousand dollars will be required to remit payments by electronic funds transfer. If a person did not engage in a covered activity until after the beginning of the designated twelve-month review period, then the monthly tax or fee liability will be calculated based upon the number of months in which covered activities occurred (for example, in a calendar year review period, if the person obtains a permit or license and begins operations for which a tax or fee may be imposed in May, the total tax or fee liability would be divided by eight to determine the average monthly tax or fee liability since there are eight months remaining in the evaluation period). Persons registering to report and pay a tax or fee for the first time, except certain successors, will not be required to participate in the electronic funds transfer program until a review is conducted.

A successor will be regarded as having an estimated tax or fee liability of twenty thousand dollars (\$20,000) or more per month when the monthly tax or fee liability of the predecessor equaled or exceeded twenty thousand dollars per month or the predecessor was a mandatory participant in the electronic funds transfer program. If the successor purchases a portion of a business that is required to participate in the mandatory electronic funds transfer program (e.g. a multiple outlet business that only sells some, but not all of its locations), the average monthly tax or fee liability of the purchased business will be computed to determine if the successor meets the threshold to be identified as a mandatory participant in the electronic funds transfer program.

After review, if a person drops below the threshold for mandatory participation, the Board shall provide notification, in writing, that the status has been changed from mandatory participation to voluntary participation in the electronic funds transfer program. If, at that time, a person wishes to discontinue making electronic funds transfer payments, a written request must be made to the Board. Payments must continue to be remitted by electronic funds transfer until the taxpayer or feepayer is notified by the Board, in writing, of an effective date of withdrawal from the program. Any person who fails to comply with the mandatory participation requirements under this section shall be liable for a penalty as provided under the applicable Revenue and Taxation Code sections 7659.9, 8760, 30190, 32260, 40067, 41060, 43170, 45160, 46160, 50112.7, 55050, and 60250.

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(2) VOLUNTARY PARTICIPATION. Any person not meeting the criteria for mandatory participation set forth in subdivision (b)(1) of this regulation may participate in the program on a voluntary basis. A person must register with the Board prior to participation. If a person wishes to discontinue making electronic funds transfer payments, a written request must be made to the Board. Payments must continue to be remitted by electronic funds transfer until notified by the Board, in writing, of an effective date of withdrawal from the program.

(c) DATE OF PAYMENT. Payment is deemed complete on the date the electronic funds transfer is initiated, if the settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If the settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) FILING OF RETURNS. In addition to a tax or fee payment made by electronic funds transfer, a return must be filed on or before the due date. Any person who fails to comply with this provision shall be subject to penalty charges as provided under Revenue and Taxation Code sections 7659.9(d), 8760(d), 30190(d), 32260(d), 40067(d), 41060(d), 43170(d), 45160(d), 46160(d), 50112.7(d), 55050(d), and 60250(d).

(e) FAILURE TO PAY BY ELECTRONIC FUNDS TRANSFER. Any person required to pay tax or fee by electronic funds transfer must continue to do so until the Board advises them otherwise in writing. Any person required to pay taxes or fees by electronic funds transfer, as set forth in subdivision (b)(1), who does not pay through electronic funds transfer but uses another means (e.g., pay by check), will be assessed a penalty as provided by Revenue and Taxation Code sections 7659.9(e), 8760(e), 30190(e), 32260(e), 40067(e), 41060(e), 43170(e), 45160(e), 46160(e), 50112.7(e), 55050(e), and 60250(e).

(f) ZERO AMOUNT DUE. When no tax is due for a given period, a zero dollar transaction must be made by electronic funds transfer or the Board must receive written notification stating that no tax is due for that period.

(g) EMERGENCIES. In emergency situations, a Federal Reserve Wire Transfer transaction may be used to transmit a payment. A Federal Reserve Wire Transfer is an electronic payment system used by federal reserve banks to transfer funds instantaneously. Generally, this method of payment is not approved for recurring transactions. Authorization must be received from the Board prior to making a payment by Federal Reserve Wire Transfer. The person who originates the transfer shall be responsible for any fees incurred in paying by a Federal Reserve Wire Transfer transaction.

History: Adopted March 22, 2005, effective July 7, 2005.

Amended January 31, 2006, effective April 20, 2006. Revised language in section (b)(2) in conformity with Assembly Bill 1765 (Stats. 2005, Ch. 519) to delete the requirement that a person voluntarily participating in the EFT program must do so for a minimum of one year.

BOARD FIELD OFFICES

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You may also request written advice regarding a particular activity or transaction. Your request should be in writing and fully describe the facts and circumstances of the activity in question. Please mail your request to the following address: State Board of Equalization, Excise Taxes Division, P.O. Box 942879, Sacramento, CA 94279-0056

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If you have been unable to resolve a disagreement with the Board, or if you would like to know more about your rights under the law, contact the Taxpayers' Rights Advocate for help:

Taxpayers' Rights Advocate, MIC:70
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0070

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State Board of Equalization

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